

## ZONING COMMITMENTS CONCERNING THE DEVELOPMENT AND USE OF REAL ESTATE

Cross-Reference: \_\_\_\_\_

In accordance with the Indiana Code Section 36-7-4-615 and Indiana Code 36-7-4-1512 et seq., the undersigned, Wilfong Land Companies, LLC and other Wilfong-related entities ("Developer"), the contract purchaser of the following described real estate located in Hamilton County, Indiana, makes the following commitments concerning the use and development of real estate ("Commitments") to the Westfield Town Council.

**Section 1. Description of Real Estate.** Real estate is described on Exhibit "A", attached hereto and incorporated herein (the "Real Estate").

**Section 2. Cross References.** Commitments are made in connection with approvals obtained under Docket Number 0710-PUD-04, and Ordinance Number \_\_\_\_\_ (the "Ordinance") recorded as instrument number \_\_\_\_\_ in the Office of the Recorder of Hamilton County, Indiana.

**Section 3. Commitments.**

1. The Developer shall reserve right-of-way along State Road 32 consistent with an approved Development Plan and in a manner acceptable to the Town.
2. The Developer shall relocate a tree (Crimson King) from the OR-Commercial 2 District to a location within Quaker Park as agreed upon by the City of Westfield.
3. The full access drives on SR 32 for the Oakridge Pointe commercial project, located on both north and south sides of SR 32, approximately 600 ft. west of Oakridge Road, shall have an evaluation period of three (3) years from the time Oakridge Pointe is open for business. At any time within three (3) years, INDOT may require the owners of Oakridge Pointe, or its successors, to restrict left turn movements on SR 32. In the case of the access drive on the north side of SR 32, the left turn into Eastbound traffic shall be restricted; in the case of the access drive on the south side of SR 32, the left turn into the Westbound traffic of SR 32 shall be restricted.

The restriction of both drives shall be accomplished simultaneously by the installation of a 6" high, 2 ft. to 4 ft. wide concrete center barrier that extends the median barrier serving the left turn lane on Eastbound SR 32 into North Oakridge Road.

If any of the following conditions shall be met, the center curb barrier will be required:

1. More than one left turning/right angle crash during any one-month period of time.
2. More than three (3) left turning/right angle type crashes during any calendar years.

Upon written notification to the City of Westfield by the INDOT Greenfield District that either of the above two conditions are met, the owners of Oakridge Pointe, or its successors, shall be required to install the aforementioned barrier within ninety (90) days. Said access drives shall become right in/out drives.

**Section 4. Binding on Successors.**

These Commitments are binding on the owner of the Real Estate, and any subdivider of the Real Estate, unless modified or terminated by the Westfield Town Council. These Commitments may be modified or terminated only by a decision of the Westfield Advisory Plan Commission after a public hearing wherein notice as provided by the rules of the Plan Commission has been made. The applicant may appeal any decisions of the Westfield Advisory Plan Commission to the Westfield Town Council.

**Section 5. Effective Date.** The Commitments contained herein shall be effective upon the occurrence of all of the following events:

- A. The adoption of an ordinance by the Westfield Town Council assigning the requested PUD Zone Classification to the Real Estate; and
- B. The acquisition of the Real Estate by the Developer or its successors and assigns.

IN WITNESS WHEREOF, WILFONG LAND COMPANIES, LLC, has caused these Commitments to be executed this \_\_\_\_ day of December, 2007.

WILFONG LAND COMPANIES

By: \_\_\_\_\_  
Ralph L. Wilfong, II, Member  
Wilfong Land Companies, LLC

STATE OF INDIANA            )  
  ) SS:  
COUNTY OF HAMILTON    )

Before me the undersigned, a Notary Public in and for said County and State, personally appeared *Ralph L. Wilfong*, as Member, Wilfong Land Companies, LLC, and having been duly sworn, acknowledged execution of the foregoing Commitments.

Witness my hand and Notarial Seal this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

My Commission Expires:

\_\_\_\_\_

\_\_\_\_\_  
Notary Public

Residing in \_\_\_\_\_ County

\_\_\_\_\_  
Printed Name

Instrument prepared by Jon C. Dobosiewicz, Wilfong-Kreutz Land Development, 17830 Casey Road, Westfield, Indiana 46074.

## **EXHIBIT "A"**

### Legal Description

A part of the Northeast Quarter of Section 2, Township 18 North, Range 3 East, a part of the Southeast Quarter of Section 35, Township 19 North, Range 3 East, and a part of the Southwest Quarter of Section 36, Township 19 North, Range 3 East, all in Washington Township, Hamilton County, Indiana, being more particularly described as follows:

Beginning at the northeast corner of the Northeast Quarter of Section 2, Township 18 North, Range 3 East, Hamilton County, Indiana; thence South 00 degrees 34 minutes 25 seconds East (assumed bearing) on the east line of said Northeast Quarter 874.95 feet to a northeast corner of the real estate described in Instrument No. 2000-21652 in the Office of the Recorder of Hamilton County, Indiana; thence the following four calls on the perimeter of said real estate: 1.) South 88 degrees 13 minutes 58 seconds West 200.00 feet; 2.) North 62 degrees 08 minutes 02 seconds West 151.65 feet; 3.) South 88 degrees 13 minutes 58 seconds West 494.50 feet; 4.) North 00 degrees 34 minutes 25 seconds West 806.36 feet to a point on the north line of said Northeast Quarter; thence North 88 degrees 40 minutes 35 seconds East 138.17 feet to the centerline of the Evan Kendall Ditch; thence North 00 degrees 17 minutes 45 seconds East along said centerline 398.76 feet to the northwest corner of the real estate described in Instrument No. 2005-63509 (bearing and distance provided for closure purposes); thence North 88 degrees 40 minutes 35 seconds East on the north line of said real estate and also on the north line of the real estate described in Instrument No. 2003-96364 a distance of 510.09 feet to a corner of said Instrument No. 2003-96364, said point also being on the east line of the Southeast Quarter of Section 35, Township 19 North, Range 3 East; thence the following four calls on the perimeter of said Instrument: 1.) North 00 degrees 50 minutes 25 seconds West on said east line 56.34 feet; 2.) North 88 degrees 40 minutes 35 seconds East 181.50 feet; 3.) South 00 degrees 50 minutes 25 seconds East 454.95 feet to a point on the south line of said Southwest Quarter; 4.) South 88 degrees 40 minutes 35 seconds West on said south line 9.90 feet to the Point of Beginning, containing 22.3 acres, more or less.

NOTE: This land description is not based upon a Retracement Survey and is to be used only for zoning purposes.